

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ROVINA KIRKLAND,

Plaintiff,

13-CV-131(LJV)(LGF)  
ORDER

v.

OFFICE OF THE MENTAL HEALTH OF THE STATE  
OF NEW YORK, BUFFALO PSYCHIATRIC CENTER,

Defendant.

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On April 4, 2013, the Court (Hon. Richard J. Arcara) referred this case to United States Magistrate Judge Leslie G. Foschio for all proceedings pursuant to 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 6.

On February 18, 2015, the defendant moved for summary judgment, Docket Item 41, and on September 30 and October 1, 2015, the plaintiff responded to the defendant's motion. Docket Items 49-57. On November 5, 2015, the defendant filed a reply. Docket Item 60. And on December 4, 2015, this case was reassigned from Judge Arcara to the undersigned. Docket Item 61.

On November 15, 2016, Judge Foschio issued a Report and Recommendation finding that the defendant's motion should be granted and the case closed. Docket Item 62. The parties did not object to the Report and Recommendation, and the time to do so now has expired. See 28 U.S.C. 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify, in whole or in part, the findings or recommendation of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's

recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Nevertheless, this Court has carefully reviewed Judge Foschio's Report and Recommendation as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to grant the defendant's motion for summary judgment.

Therefore, and for the reasons stated in the Report and Recommendation, the defendant's motion for summary judgment (Docket Item 41) is GRANTED; the complaint is dismissed; and the Clerk of the Court is directed to close the file.

SO ORDERED.

Dated: January 23, 2017  
Buffalo, New York

**s/Lawrence J. Vilardo**  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE